

Barnes, Plaintiff
Nguyen, Defendant

CERTIFICATE OF NOTICE

Date Rcvd: Oct 17, 2017

Signature: /s/Joseph Speetjens

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

Anthony Cao Hoan Nguyen,
Debtor(s).

Case No.17-51644-MEH
Chapter 7

Jason Barnes,
Plaintiff(s),

Adversary No. 17-05081

vs.

**ORDER SETTING CASE
MANAGEMENT CONFERENCE**

Anthony Nguyen, individually and as owner
of California Croissant Bakehouse And Cafe,
LLC,
Defendant(s).

This action having been assigned to the undersigned Judge, IT IS HEREBY ORDERED that:

1. **Date and Time of Case Management Conference:** A case management conference will be held on December 18, 2017 at 10:00 am. Parties may appear by telephone in accordance with Judge Hammond's Telephonic Appearance Policy and Procedures, available on the court's website at: <http://www.canb.uscourts.gov/judge/hammond/procedures>.
2. **Participants:** This Order applies to counsel for all parties and those individuals representing themselves. A party representing himself or herself must comply with the provisions of this order.

3. **Preconference Discussion:** Participants shall confer at least **21** days prior to the case management conference regarding:

- A. Those topics identified in FED R. CIV. P. 26(f), including jurisdiction and venue; whether the initial disclosures required by FED. R. CIV. P. 26 (a)(1) are appropriate in the circumstances of the action; the nature and basis of the parties' claims and defenses; identification of genuinely controverted issues; anticipated motions; further proceedings, including setting of dates for discovery cut-off, pre-trial and trial; prospects for settlement; and whether the case should be assigned to the Bankruptcy Dispute Resolution Program; and
- B. Whether the parties are in a position to proceed productively at the case management conference and whether a personal appearance will be made.

4. **Continuances:** **The case management conference will not be continued without leave of court.** However, the case management conference may be continued for good cause shown, such as conflict with another court appearance, ongoing settlement discussions or representations by counsel that the case management conference is premature.

To request a continuance, a participant should submit, at least **7** days prior to the case management conference:

- A. A stipulation signed by all parties to the action or a declaration setting forth the reasons a continuance is requested, the positions of all participants with respect to a continuance and proposed time frames for the continued hearing; and
- B. A proposed order continuing the case management conference which incorporates all other provisions of this order. **THE PROPOSED ORDER SHALL CONTAIN THE FOLLOWING LANGUAGE:**
"EACH PARTY SHALL FILE AND SERVE ON ALL OTHER

PARTIES AN UPDATED CASE MANAGEMENT CONFERENCE
STATEMENT AT LEAST 7 DAYS BEFORE THE CASE
MANAGEMENT CONFERENCE.”

If a request for a continuance has not been filed at least 7 days prior to the case management conference, the case management conference will go forward.

5. Case Management Conference Statement and Proposed Discovery Plan:

At least 7 days prior to the case management conference, all parties shall file, jointly or separately, a CASE MANAGEMENT CONFERENCE STATEMENT AND PROPOSED DISCOVERY PLAN with the court pursuant to FED. R. CIV. P. 16(c) and 26(f). The statement shall not exceed four pages in length, addressing the following:

- A. A statement of the date and time that counsel conferred as required by FED. R. CIV. P. 26 (f) and this order;
- B. A concise statement summarizing each legal theory on which the plaintiff or defendant relies and a brief general statement of the facts which support this theory;
- C. The position of the parties with respect to Bankruptcy Rules 7008 and 7012(b);
- D. The proposed discovery plan and proposed cut-off dates for discovery, disclosure, and pre-trial motions;
- E. The estimated time for trial and desired trial date; and
- F. Whether alternative dispute resolution is desired by the parties.
- G. A statement by any non-governmental corporate party to this action identifying all its parent corporations and listing any publicly-held company that owns 10% or more of the party’s stock. This statement shall be supplemented within a reasonable time of any change in the information.

THE CAPTION SHALL CONTAIN THE DATE AND TIME OF THE CASE
MANAGEMENT CONFERENCE.

1 6. **Scheduling Order:** At the case management conference, dates will be
2 established, such as for the close of discovery, for a trial setting conference, or for trial.
3 Thereafter, the court will enter a scheduling order.

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6 7. **Judgment:** Final judgment shall be entered by the Bankruptcy Court unless the
7 court rules that this is an appropriate core or non-core proceeding in which the parties have
8 not consented to this Court's jurisdiction and final judgment should be entered by the District
9 Court.

10 8. **Failure of Defendant(s) to Appear:** In the event the defendant(s) has not
11 appeared in the action, the plaintiff should nonetheless go forward with the case management
12 conference unless a default judgment, as distinguished from the clerk's entry of default, has
13 been entered more than fourteen days prior to the date of the case management conference.
14 If a default judgment has not been entered and no appearance is made, the court will either
15 close the case or issue an order to show cause why the adversary proceeding should not be
16 dismissed for lack of prosecution. The order to show cause generally will be heard within
17 sixty days of the scheduled case management conference.

18 9. **Contact with the Court:** The case management conference will proceed
19 unless it has been continued by order of the court or the adversary proceeding has been
20 disposed of by final order (for example, by a judgment or order of dismissal). If counsel has
21 filed timely a request for a continuance, a default judgment, or a stipulation for a judgment or
22 a dismissal, but has not yet received the order back from the court, counsel should presume
23 that the case management conference will proceed.

24 10. **Bankruptcy Dispute Resolution Program (BDRP):** The Bankruptcy Dispute
25 Resolution Program (BDRP) offers a means to resolve disputes quickly, at less cost and often
26 without the stress and pressure of litigation. Methods include mediation, negotiation, early
27 neutral evaluation and settlement facilitation. Parties wishing assignment to the BDRP or to
28 a judicially supervised Settlement Conference should contact Anna Rosales at (408) 278-

7581. The BDRP procedures are explained in Bankruptcy Local Rule 9040-1 *et seq.* These procedures and a list of available resolution advocates and their resumes are available in the Clerk's Office.

11. **Service of Order:** The plaintiff shall serve this case management conference order on all parties and file a proof of service with the court. Plaintiff shall also promptly serve a copy of the Bankruptcy Dispute Resolution Program Information Sheet on all parties. A copy of the Bankruptcy Dispute Resolution Program Information Sheet is available on the Court's web site at www.canb.uscourts.gov and at the Clerk's office.

12. **Sanctions:** The failure of a party to comply timely with the provisions of this order may result in the imposition of sanctions pursuant to Bankruptcy Rule 7016.

DATED: 10/17/17

/s/ M. Elaine Hammond
UNITED STATES BANKRUPTCY JUDGE